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Supreme Court Watch: Recent Decisions Of Selected Criminal Cases

Helen Dalphonse

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Bobby v. Bies

129 S. Ct. 2145
Decided June 2009

Question Presented:

Whether the holding of a state post-conviction hearing to determine the mental capacity of a capital defendant whose death sentence was affirmed before *Atkins v. Virginia,* 536 U.S. 304 (2002), which barred the execution of mentally retarded defendants, violates the Double Jeopardy clause.

Facts:

In 1992, Michael Bies was convicted of aggravated murder, kidnapping, and attempted rape of a ten year-old boy. During sentencing, the trial court considered Bies's mild to borderline mental retardation as a mitigating circumstance, but ultimately concluded that aggravating factors warranted the death penalty. The state appeal and supreme courts affirmed the conviction and sentence.

In 2002, the U.S. Supreme Court ruled in *Atkins v. Virginia*, 536 U.S. 304 (2002) that execution of mentally retarded individuals violates the Eighth Amendment. In light of the *Atkins* decision, Bies filed petition for post-conviction relief, but argued that the state could not re-litigate his mental capacity because it had already been determined in the original trial.

The state court determined that it was not barred from evaluating Bies's mental capacity because the standard for mental retardation had been altered by *Atkins*. Bies then filed for habeus corpus relief in federal district court. The district court granted Bies's petition and ordered that his death sentence be vacated. The Sixth Circuit affirmed the judgment of the district court, finding that the state supreme court had previously concluded Bies's mental retardation under a standard that entitled Bies to a life sentence.

Decision:

The Supreme Court unanimously reversed the Sixth Circuit's decision, holding that Bies was not protected by the double jeopardy clause, because he was not twice put in jeopardy, and that "the touchstone for double-jeopardy protection in capital-sentencing proceedings is whether there had been an 'acquittal.'" The Court explained that no state court finding gave Bies the right to a life sentence because issue preclusion only occurs when "a determination ranks as necessary or essential only when the final outcome hinges on it." After considering the weight given to Bies's mental status in the state courts, the Court found that "Bies's mental capacity was not necessary to the judgments affirming his death sentence."

Dean v. United States

129 S. Ct. 1849
Decided April 2009

Question Presented:

Whether 18 U.S.C. § 924(c)(1)(A)(iii), establishing a ten-year mandatory minimum sentence for a defendant who "discharge[s]" a firearm during a crime of violence, requires proof that the discharge was volitional, and not merely accidental, unintentional, or involuntary.

Facts:

Christopher Michael Dean, while robbing a bank and obtaining money from the teller's drawer, accidentally discharged his gun, hitting a partition between two teller stations. Dean was arrested, along with Ricardo Curtis Lopez, for conspiracy to commit a robbery under 18 U.S.C. § 1951(a), and aiding and abetting each other "in using, carrying, possessing, and discharging a firearm during an armed robbery" under 18 U.S.C § 924(c)(1)(A)(iii). The district court convicted Dean of both counts and sentenced him to ten years in prison, pursuant to § 924(c)(1)(A)(iii) sentencing guidelines, because the firearm discharged during the course of the robbery. On appeal, Dean argued that the discharge of the gun was accidental and § 924 required proof of intent to discharge the firearm. The court of appeals affirmed the district court's decision.

Decision:

The Supreme Court affirmed the lower court's ruling and held that the language and structure of § 924(c)(1)(A)(iii) did not require the prosecution to prove the defendant intended to discharge a firearm. Namely, the language in the statute did not specify that the discharge of the gun must be performed knowingly or intentionally.

Justice Stevens dissented, arguing that the structure of the statute and the common law presumption that criminal penalties require proof of *mens rea* supported a holding that the provision regarding firearm discharge only applies to intentional discharges. Justice Breyer also dissented, finding that the statute was meant to apply only to intentional discharges of firearms. He based his analysis on the rule of lenity, finding the discharge provision "sufficiently ambiguous to warrant the application of that rule."

Hayes v. United States

129 S. Ct. 1079
Decided February 2009

Question Presented:

Whether, to qualify as a "misdemeanor crime of domestic violence" under 18 U.S.C. § 921(a)(33)(A), an offense must have as an element a domestic relationship between the offender and the victim.

Facts:

While responding to a domestic violence report, police officers appeared at the residence of Randy Edward Hayes and found several firearms in his possession. Hayes, who had been previously convicted of battery, was arrested and charged under 18 U.S.C. § 921(a)(33)(A), which prohibits the possession of firearms by individuals who have been convicted of a "misdemeanor crime of domestic violence." Hayes filed a motion to dismiss, arguing that his previous battery conviction, the predicate offense, did not have, as an element, a "domestic relationship" between the victim and offender. The district court denied the motion and Hayes pleaded guilty. The Fourth Circuit Court of Appeals reversed, holding that a predicate offense under § 922(g)(9) must include an element of a domestic relationship.

Decision:

The Supreme Court reversed and remanded the Fourth Circuit decision, finding, "it suffices for the Government to charge and prove a prior conviction that was, in fact, for 'an offense…committed by' the defendant against a spouse or other domestic victim." The Court first noted that Congress used the word "element" singularly, implying that it only intended one required element to satisfy § 921(a)(33)(A). The Court reasoned that if Congress meant to make (1) the use of force and (2) the relationship between aggressor and victim an element of the predicate offense, "it likely would have used the plural 'elements' as it has done in other offense-defining provisions." In addition, the Court relied on the purpose of the statute, which was enacted to extend punishment to domestic abusers who failed to receive punishment for the possession of firearms under then existing felon-in-possession laws. The Court reasoned that, "to exclude the domestic abuser convicted under a generic use-of-force statute (one that does not designate a domestic relationship as an element of the offense) would frustrate Congress's manifest purpose."

Justice Roberts, joined by Justice Scalia, dissented, claiming that the text of the statute was ambiguous, but, "the fact that Congress included the domestic relationship language in the clause of the statute designating the element of the predicate offense strongly suggests that it is in fact part of the required element."

Kansas v. Ventris

129 S. Ct 1841
Decided April 2009

Question Presented:

Whether prosecutors may use a defendant's statement, made in the absence of a knowing and voluntary waiver of the right to counsel, to impeach a witness, as opposed to during its case-in-chief.

Facts:

Donnie Ray Ventris and Rhonda Theel confronted Ernest Hicks in his home, and during the confrontation Hicks was shot and killed. Ventris and Theel and drove away in Hicks' truck, taking his money and cell phone. Both Ventris and Theel were arrested and charged with robbery and Hicks's murder. Theel struck a bargain with the state to drop the murder charge in exchange for Theel pleading guilty to robbery and testifying that Ventris was the shooter. Meanwhile, an informant planted in Ventris's jail cell claimed that he heard Ventris admit to shooting Hicks and stealing his keys, wallet, money, and car. At trial, Ventris testified

that Theel was responsible for the robbery and shooting. The state could not introduce Ventris's confession to the informant in its case-in-chief because it violated the Sixth Amendment right to counsel, but sought to introduce the informant's testimony to impeach Ventris's testimony. The trial court allowed the testimony, but instructed the jury to consider it with caution. The jury acquitted Ventris of felony murder and misdemeanor theft, but convicted him for aggravated burglary and aggravated robbery. The Kansas Supreme Court reversed the conviction, holding that the statements made to the informant were not admissible at trial for any reason, including impeachment.

Decision:

The Supreme Court reversed the Kansas Supreme Court decision and held that the informant's testimony regarding Ventris's confession was admissible to impeach Ventris's testimony.

Expanding on the Sixth Amendment right to counsel as defined in *Massiah v. United States*, 377 U.S. 201 (1964), the Court clarified that a defendant's right to counsel is "a right to be free of uncounseled interrogation, and is infringed at the time of the interrogation." The Court noted, "We have held in every other context that tainted evidence – evidence whose very introduction does not constitute the constitutional violation, but whose obtaining was constitutionally invalid – is admissible for impeachment."

Justice Stevens, joined by Justice Ginsburg, dissented, stating that the Court's holding "eroded the principle that 'those who are entrusted with the power of government have the same duty to respect and obey the law as the ordinary citizen.'" (Citation omitted).

Melendez-Diaz v. Massachusetts

129 S. Ct. 2527
Decided June 2009

Question Presented:

Whether a state forensic analyst's laboratory report prepared for use in a criminal prosecution is "testimonial" evidence subject to the demands of the Confrontation Clause as set forth in *Crawford v. Washington*, 541 U.S. 36 (2004).

Facts:

Police officers arrested Luis Melendez-Diaz, along with two other suspects, after finding four bags of a substance suspected to be cocaine in a vehicle occupied by the three suspects. When the officers delivered the men to the police station, they found an additional bag of suspected cocaine hidden between the seats of their police cruiser. The officers submitted the bag to a state forensics laboratory. Forensic technicians identified the substance as cocaine. Subsequently, Melendez-Diaz was charged with distributing and trafficking cocaine. At trial, the forensic technicians provided affidavits that were admitted into evidence. The jury convicted Melendez-Diaz and the Appeals Court of Massachusetts affirmed the conviction.

Decision:

The Supreme Court reversed and remanded the lower court's decision, holding that the forensic technicians' affidavits constituted testimonial statements, which entitled Melendez-Diaz to confrontation rights under the Sixth Amendment as defined in *Crawford v. Washington*, 541 U.S. 36 (2004). In *Crawford*, the Court held that the Confrontation Clause "guarantees a defendant's right to confront those who bear testimony against him," and "a witness's testimony against a defendant is thus inadmissible unless the witness appears at trial, or if the witness is unavailable, the defendant had a prior opportunity for cross-examination." The Court refused to view the affidavits as comparable to business records, which do not implicate a right of confrontation, because the business records are "created for the administration of an entity's affairs and not for the purpose of establishing or proving some fact at trial – they are not testimonial. The Court further reasoned that "exercising the right to confront a forensic analyst would be invaluable to a petitioner because an analyst's lack of proper training or deficiency in judgment may be disclosed in cross-examination."

Justice Thomas concurred and emphasized that the documents at issue were clearly affidavits, thus they constituted testimonial statements and were subject to the Confrontation Clause.

Justice Kennedy, joined by Justices Breyer and Alito, dissented, claiming that, "[t]he Court sweeps away an accepted rule governing the admission of scientific evidence." The dissent predicted that the Court's ruling "has vast potential to disrupt criminal procedures that already give ample protections against the misuse of scientific evidence."

Puckett v. United States

129 S. Ct. 1423
Decided March 2009

Question Presented:

Whether forfeited claims that the government breached a plea agreement are subject to "plain error" review.

Facts:

James Puckett was indicted on two charges: armed bank robbery and using a firearm during and in relation to a crime of violence. Puckett negotiated a plea agreement that, in exchange for pleading guilty on both counts, waiving his trial rights, and cooperating with the Government's investigation, the Government would stipulate that Puckett demonstrated acceptance of responsibility, thereby qualifying him a reduction in his offense level and guidance level. Before sentencing, Puckett confessed to his probation officer that he had engaged in a ploy to defraud the government. Thereafter, the probation officer recommended that Puckett receive no reduction for acceptance of responsibility. During sentencing, Puckett's counsel protested to the recommendation, but the district judge refused to grant the reduction. Puckett did not object that the Government violated its obligations pursuant to the plea agreement. On appeal to the Fifth Circuit Court of Appeals, Puckett argued the Government violated the plea agreement. The Government argued that Puckett forfeited his claim because he failed to raise the objection at trial. The court of appeals, applying the plain-error standard, found that an obvious error occurred, but that Puckett failed to demonstrate that the error caused him prejuice by affecting his substantial rights.

Decision:

The Supreme Court affirmed Puckett's sentence and held that the plain error test applies in the usual fashion to a forfeited claim that the government failed to meet its obligations under a plea agreement. In so holding, the Court analogized a plea bargain to a contract, stating "[w]hen the consideration for a contract fails – that is when one of the exchanged promises is not kept – we do not say that the voluntary bilateral consent to the contract never existed, so that it is automatically and utterly void; we say that the contract was broken." With this analogy, the Court reasoned, "rescission is not the only possible remedy," and therefore in the case of a breached plea agreement, the guilty plea is also not automatically void. The Court also noted that "[t]he defendant whose plea agreement has been broken by the Government will not always be able to show prejudice, either because he obtained the benefits contemplated by the deal anyway or because he likely would not have obtained those benefits in any event."

Justice Souter, joined by Justice Stevens, dissented, finding that the Government's breach of the plea agreement affected Puckett's substantial rights. "Under the Constitution the protected liberty interest in freedom from criminal taint, subject to the Fifth Amendment's due process guarantee of fundamental fairness, is properly understood to require a trial or plea agreement honored by the Government before the stigma of a conviction can be imposed."

Stafford Unified School District v. Redding

129 S. Ct. 2633
Decided June 2009

Question Presented:

Whether the Fourth Amendment prohibits public school officials from conducting a strip search of a student suspected of possessing and distributing a prescription drug on campus in violation of school policy.

Facts:

Middle school officials subjected thirteen year-old Savanna Redding to a strip search after receiving a report that Redding was distributing prescription Ibuprofen to other students. After the school officials searched Redding's backpack, they directed her to the nurse's office, where the school nurse ordered Redding to remove her outer clothes and then shake out her underwear and bra. The search did not uncover any contraband. Redding's mother filed suit against the school district and school officials for violating Redding's Fourth Amendment rights. The district court granted summary judgment in the school's favor on the basis that school officials were protected by qualified immunity. However, the Ninth Circuit, sitting en banc, reversed in part, finding that the school official that authorized the search could be held liable for an unconstitutional search because he made the decision to perform the strip search.

Decision:

The Supreme Court held that the strip search vi-

olated the Fourth Amendment, but that, due to the lack of clarity with regard to school searches of students, all officials who ordered and witnessed the search were protected by qualified immunity.

In reaching its decision, the Court applied the test for student searches by school officials established in *New Jersey v. T.L.O.*, 469 U.S. 325 (1984), which states that a school search "will be permissible in its scope when the measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction." The Court found that under this standard, it was reasonable to search Redding's backpack and outer clothes because the school officials suspected that she was in possession of a banned substance. However, the Court found it unreasonable to search her underwear because school officials lacked any indication that the power or degree of the drugs posed a danger to students and had no reason to believe that Redding was carrying drugs in her underwear. The question of the school district's liability, which was not resolved, was remanded for consideration.

Justice Stevens concurred in part and dissented in part, agreeing with the Court's holding that the strip search was unconstitutional, but disagreeing with the decision to extend qualified immunity to the school officials who authorized the search. Justice Ginsburg also concurred in part and dissented in part, agreeing that the search violated the Fourth Amendment, but finding that the *T.L.O.* test clearly established the law governing student searches by school officials and, therefore, qualified immunity should not have been extended to the school officials.

Justice Thomas concurred in the judgment in part and dissented in part, agreeing with the Court's extension of qualified immunity to the school officials, but believed that the search of the student did not violate the Fourth Amendment under the *T.L.O.* standard and that the Court's decision improperly undermined school officials' authority.

Waddington v. Sarausad

129 S. Ct 823
Decided January 2009

Question Presented:

Whether federal courts must accept state courts' determinations that jury instructions fully and correctly set out state law governing accomplice liablity when reviewing a due process challenge under 28 U.S.C. § 2254?

Facts:

Cesar Sarausad II was a member of a gang known as the 23rd Street Diablos. Sarausad was driving a car when a passenger and fellow gang member leaned out the window and began shooting at members of a rival gang, the Bad Side Posse. The shots killed and injured several people. Sarausad was tried as an accomplice to second-degree murder, attempted second-degree murder, and second-degree assault. Sarausad argued that he had no knowledge of the intent to commit murder, only the assault. During closing arguments, the state prosecutor used the phrase "in for a dime, in for a dollar" to summarize the elements of accomplice liability. The trial judge instructed the jury that one's knowledge that a crime will occur is sufficient to establish the person as an accomplice; it is not necessary for an accomplice to have specific intent to aide in the commission of the crime. The jury convicted Sarasusad and he was sentenced to twenty-seven years in prison. The Washington Supreme Court upheld the conviction. However, the Washington Supreme Court later held in *State v. Roberts*, 142 Wn. 2d 471 (2000), that the expression "in for a dime, in for a dollar" was inaccurate to describe accomplice liability because the phrase implies that an accomplice who knows of one crime could also be liable for a far greater crime.

Following the *Roberts* decision, Sarausad requested post-conviction relief, but the Washington Supreme Court ultimately denied his petition, finding that the jury instructions were sufficient and that the prosecutor's comment was not prejudicial. Then Sarausad filed and was granted a petition for a writ of habeas corpus in federal district court. The district court found that there was sufficient evidence that the jury was confused about the elements of accomplice liability. The Court of Appeals for the Ninth Circuit affirmed.

Decision:

The Supreme Court reversed the Ninth Circuit decision, holding that the jury instructions properly followed Washington's statute regarding accomplice liability. The Court found error in the Ninth Circuit's ruling because it "evaluated whether respondent's conviction required a specific intent versus a general intent to kill, not whether it required knowledge of a murder versus knowledge of an assault – the issue under review here. Additionally, the Court found that there was no

evidence that the prosecutor's comment, "in for dime, in for a dollar," led to juror confusion regarding the elements of accomplice liability.

Justice Souter, joined by Justices Stevens and Ginsburg, dissented, rejecting that the majority's position that the jury instructions were clear because they incorporated language of the statute. According to Souter, the statute itself was not clear in light of the Washington State Supreme Court ruling in *Roberts*. The dissent also asserted that the prosecutor's ambiguous statement was enough to confuse a jury.

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